

County Courts (Ireland) Bill.

ARRANGEMENT OF CLAUSES.

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Clauses.

1. Service of process.
2. Proceedings for recovery of costs and balance of sum claimed.
3. Forgery of summons, &c. of county court.
4. Jurisdiction of judge within or without his districts.
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10. Proof in actions of debt or other liquidated demand not exceeding 20*l.* by affidavit. Amendment of section 59 of 40 & 41 Vict. c. 56.
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20. Firms of solicitors.
21. Appeals at winter assizes for Belfast and county Antrim.
22. Rule-making authority.

[Bill 293.]

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Class.

- 23. Audit of account or stamp duties, court fees, moneys paid into court, &c.
- 24. Interpretation.
- 25. Short title and construction.
- 26. Commencement of Act.
- 27. Repeals.

SCHEDULE.

A

B I L L

TO

Amend the Law relating to County Courts in Ireland. A.D. 1910.

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

- 5 **1.**—(1) Service of process of the county court shall be effected in the manner directed or permitted by law, unless otherwise ordered by the judge, who may order service to be substituted, or that service already had or accepted by a solicitor on behalf of a defendant shall be deemed good service, as the case may be. Service of process.
- 10 (2) Service of a default process upon a corporation or upon a limited company may be effected by service upon the secretary or local manager of such corporation or limited company at any place of business of such corporation or limited company within the jurisdiction of the county court.
- 15 (3) The plaintiff or party levying an execution, if resident within the United Kingdom, may be served in the prescribed manner with an interpleader process under section one hundred and fifty of the Civil Bill Courts (Ireland) Act, 1851, or under this Act.
- 20 (4) In interpleader proceedings under the Civil Bill Courts (Ireland) Act, 1851, or under this Act in respect of goods seized under execution, the civil bill or other proceeding may be made returnable within the prescribed time for any day of any sitting of the then current or next sitting of the county court for the
- 25 division in which the seizure was made, and the defendants shall be liable to be sued therein, and the judge shall have power to

A.D. 1910. adjourn the hearing to another town or division within any of his jurisdictions.

Proceedings
for recovery
of costs and
balance of
sum claimed.

2. Where a defendant in any action, at any time after issue of the civil bill, pays to the plaintiff or to his solicitor the entire amount sued for, but without costs, the plaintiff may obtain a decree for the costs of such action; and where a defendant pays a part only of the sum sued for, the plaintiff may continue the proceedings for the balance, and if he obtains a decree for the same or any part thereof he shall be entitled to the costs of the action, to be taxed as if the decree were for the aggregate of the sum paid on account and the sum for which such decree was actually given.

Forgery of
summons,
&c. of
county court.
[See 51 & 52
Vict. c. 43.
s. 180.]

3. Every person who forges any summons, process, decree, or order of the county court, or who serves or enforces any such forged summons, process, decree, or order, knowing the same to be forged, or delivers or causes to be delivered to any person any paper purporting to be a copy of any summons, process, decree, or order of the county court, knowing the same to be false, or who acts or professes to act under any false colour or pretence of the process or authority of the county court, shall be guilty of an offence against the County Courts (Ireland) Acts, 1851 to 1889, and shall be liable on summary conviction to a fine not exceeding *fifty pounds*, or to imprisonment with or without hard labour for a term not exceeding six months. Any offence under this section may be prosecuted before a court of summary jurisdiction in manner provided by the Summary Jurisdiction Acts.

Jurisdiction
of judge
within or
without his
districts.
[See 51 & 52
Vict. c. 43.
s. 9.]

4. A judge shall, whether within the district of any of his courts or not, have jurisdiction to make any order or exercise on an ex parte application any authority or jurisdiction in any action, suit, matter, or proceeding pending in any of the courts of which he is judge, which he could make or exercise ex parte within the district of any of his courts, and, with the consent of both parties to an action, suit, matter, or proceeding, to hear or decide any action, suit, matter, or proceeding at any place either within or without any such district.

Attachment
of debts.

5. Upon the application of any person having obtained a decree or order of a county court for the recovery by or payment to him of any sum of money, whether by way of debt or

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damages or costs, a judge may, when the execution debtor resides within the jurisdiction of his court, make an order for the attachment of any debt owing or accruing to such execution debtor from any person residing within the same jurisdiction, and such order, when made absolute, shall have the same force and effect as a decree and may be executed in like manner.

6.—(1) In all actions (other than actions falling within section thirty-three of the County Officers and Courts (Ireland) Act, 1877) in which the civil bill courts have jurisdiction the judge shall have power, where goods seized under a civil bill decree, or the produce or value thereof, are claimed by a person other than the judgment debtor, upon the application of the sheriff or undersheriff or of the claimant, or of either party to the decree, whether the titles of the claimants thereto have a common origin or not, to hear and dispose of interpleader proceedings, and to make orders therein, and to stay all other proceedings pending such hearing, and upon such hearing to settle and adjust damages and sheriff's fees and expenses; and it shall and may be lawful for the sheriff, where the value of such goods seized, as settled by an appraiser appointed by him, shall equal or exceed the amount of the decree under which same are so seized, upon the lodgment with him of the amount of such decree, or the obtaining by him of security therefor, or in case the value of such goods so appraised shall not amount to the amount of such decree, then or upon the lodgment with him of the value thereof, or the obtaining by him of security for such value, to release said goods, and in case he shall be unable to obtain such lodgment or security, then it shall be lawful for such sheriff to sell all or a sufficient portion of said goods if authorised so to do by an order of the judge, and the amount of such lodgment, or the security or the proceeds of such sale, respectively, shall forthwith on receipt thereof by him be lodged in court to abide the decree or order of the judge.

(2) An interpleader civil bill may be issued by any person seeking relief from parties making adverse claims to any debt or money demands within the jurisdiction of the county court.

(3) The powers and authorities given by this section to the judge shall be exercised in the prescribed manner under rules to be made by the authority in this Act mentioned.

(4) All decrees or orders under section one hundred and fifty of the Civil Bill Courts (Ireland) Act, 1851, or under this section of this Act, shall be subject to appeal.

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Orders
on sheriff
to make
returns.

7. The judge shall have power, upon the application of a party to a decree which has been lodged with the sheriff for execution, to make an order upon the sheriff or under-sheriff to make a return to such decree within a limited time, and the judge shall have power to enforce such order by fine or attachment. 5

Seizure
of goods
claimed by
third party.
[See 23 & 24
Vict. c. 126.
ss. 13 and 14,
Eng.]

8. When goods or chattels have been seized in execution by a sheriff or other officer under a decree, and some third person claims to be entitled, under a bill of sale or otherwise, to such goods or chattels by way of security for a debt, the judge may order a sale of the whole or part thereof upon such terms as to payment of the whole or part of the secured debt or otherwise as he shall think fit, and he may direct the application of the proceeds of such sale in such manner and upon such terms as to such judge may seem just. 10

Enforcement
of instalment
order.

9. Where an instalment order under the Debtors Act has been made against a defendant, and such defendant has, since such order has been made, changed his residence into another county, the order shall be capable of being enforced by attachment against such defendant by order of the county court judge of the county into which the defendant has so changed his residence. 15

Proof in
actions of
debt or other
liquidated
demand not
exceeding
20*l.* by affi-
davit.
Amendment
of section 59
of 40 & 41
Vict. c. 36.

10. Notwithstanding anything contained in section fifty-nine of the County Officers and Courts (Ireland) Act, 1877, the judge may, on the hearing of civil bill proceedings under that section, where the amount sought to be recovered by the civil bill does not exceed the sum of *twenty pounds*, and where the proceedings are in respect of commercial claims, which shall include claims for goods sold and delivered, goods bargained and sold, work and labour done, bills of exchange, promissory notes, accounts stated, money paid, or any of them, or suretyship for any of them, in case he deems it just and proper so to do, accept and act on proof by the affidavit mentioned therein to the like extent as he could on oral testimony of the same nature given before him, but such affidavit shall not be admissible on appeal. 20 25 30

Affidavit for
renewal of
decree may
be sworn by
clerk or
agent of
party seek-
ing renewal
and by
secretary
of limited
company.

11. The affidavit necessary to be made for the purpose of obtaining a renewal of a decree, dismiss, or order under the provisions of section one hundred and forty of the Civil Bill Courts (Ireland) Act, 1851, may be made by a clerk or agent of the party seeking renewal having personal knowledge of the facts of the case, and in cases where the plaintiff is a limited company or corporation or any body corporate, whether public or private, the affidavit necessary may be made by the secretary or other 35 40

officer of such company having personal knowledge of the facts of the case. A.D. 1910.

12. Subject to rules under this Act any affidavit required to be used in any proceedings under any of the County Courts (Ireland) Acts, 1851 to 1889, or under this Act may be sworn before a commissioner for oaths or a justice of the peace for that part of the United Kingdom in which the affidavit is sworn, and the judge shall be entitled to take judicial notice of the signature of the person before whom the affidavit is sworn.

Persons before whom affidavits may be sworn.

13. Subject to rules and orders under this Act every decree and dismiss of a county court judge in any action, and every affirmance or reversal of such decree or dismiss, save a decree for the possession of lands or tenements or an affirmance of such last-mentioned decree, shall be in full force and effect for two years from the date of the decree or dismiss, and it shall not be necessary to renew such first-mentioned decree or dismiss, or affirmance or reversal thereof, within the said period of two years unless there is some change in the party entitled to execution or liable thereto, and in such other cases as may be prescribed. After the expiration of the said period of two years such first-mentioned decree or dismiss, or affirmance or reversal thereof, shall be renewable as provided by the Civil Bill Courts (Ireland) Act, 1851.

Decrees to be in force for two years without renewal.

14. In all appeals under the provisions of the County Court Amendment (Ireland) Act, 1882, the period for the giving and lodging of the notice and making the lodgment of money or perfecting security in the said Act mentioned shall, in undefended cases, be six clear days, to run from the actual day and date of the pronouncing of the decree, dismiss, or order appealed from, or four clear days from the close of the sessions, whichever shall first happen; and in defended cases the period shall be six clear days from the giving to the person against whom such decree, dismiss, or order shall be made, or to his solicitor, the prescribed notice of the fact of the decree, dismiss, or order in question having been pronounced, or four clear days from the close of sessions, whichever shall first happen; and the said Act shall be amended as provided by this section.

The time for appealing shall be six days, to run from actual date of decision.

15. If any person dissatisfied with any decree, dismiss, or order, whether adverse to him or in his favour, pronounced by any judge in the exercise of any jurisdiction conferred, whether before or after the passing of this Act, upon him by any Act relating to

Prosecution of appeal after abatement by death.

A.D. 1910. county courts, gives notice of appeal, and if before or after such notice is perfected the death of any of the parties occurs, then, subject to rules and orders of the High Court, the appeal may be prosecuted within such time, upon such terms and conditions, and in such manner as may be prescribed by such rules and orders as 5 aforesaid: Provided that unless and until such rules and orders are made no such decree, dismiss, or order as last aforesaid shall be affected by the provisions of this section.

Defendant
may pay
money into
court; notice
to be given
to plaintiff.
[See 51 & 52
Viet. c. 43.
s. 107.]

16. It shall be lawful for the defendant in any action or matter, within such time as shall be prescribed, to pay into court 10 such sum of money as he shall think a full satisfaction for the demand of the plaintiff, together with the costs incurred by the plaintiff up to the time of such payment; and notice of such payment shall be communicated by the clerk of the peace to the plaintiff or to his solicitor by post, or by causing the same to be 15 delivered at the usual place of abode or business of the plaintiff or of his solicitor; and the plaintiff may in the prescribed manner elect to accept the said sum of money and costs in full satisfaction, and if the plaintiff so elect the said sum of money shall be paid to him; but if the plaintiff elect to proceed, and shall 20 recover no further sum in the action or matter than shall have been so paid into court, he shall pay to the defendant the costs incurred by him in the said action or matter after such payment; and an order shall thereupon be made by the court for the payment of such costs by the plaintiff or for payment of same 25 out of the money so paid into court.

Omission or
misstatement
of addition
or residence
of a party
not to render
process,
decree, or
dismiss void.
14 & 15 Viet.
c. 57.

17. Notwithstanding anything contained in section sixty-one of the Civil Bill Courts (Ireland) Act, 1851, no process, decree, or dismiss of any county court shall be null and void by reason only that the addition or last known place of residence of any 30 of the parties is not stated or is incorrectly stated therein; but such process, decree, or dismiss, or the proceedings thereunder, may be set aside either wholly or in part, or such process, decree, or dismiss may be amended or otherwise dealt with, as the judge or judge on appeal, as the case may be, may think fit. 35

Amendment
of section 56
of 40 & 41
Viet. c. 56.

18. Section fifty-six of the County Officers and Courts (Ireland) Act, 1877, shall not apply to any case in which the plaintiff and defendant do not reside in the same civil bill jurisdiction, nor to any default or other civil bill process for recovery of a debt for which proceedings at petty sessions could not have 40

been taken at the time at which the proceedings by civil bill were commenced. A.D. 1910.

19. Rules to be made under this Act may provide for co-partners, or for a person or persons trading in the name of a firm, to sue and to be sued in the name of their firm. *Partners and firms.*

20. It shall be lawful for proceedings in the civil bill courts to which this Act applies to be carried on and defended by solicitors in the name of a firm of solicitors; and it shall be lawful for any member of such firm to appear before the court in such proceedings, provided that the names of the members of the said firm shall be registered with the clerk of the Crown and peace of the said courts. *Firms of solicitors.*

21. The judge or judges of the winter assize court which shall include the winter assize court for the county of the city of Belfast and for the county of Antrim shall have jurisdiction to hear and determine civil bill appeals for the county of the city of Belfast and the county of Antrim in like manner as the judges of the spring and summer assizes. *Appeals at winter assizes for Belfast and county Antrim.*

22.—(1) The President of the Incorporated Law Society of Ireland and a member of the Council of the Bar of Ireland appointed for the purpose by that Council shall be additional ordinary members of the rule-making authority mentioned in section seventy-nine of the County Officers and Courts (Ireland) Act, 1877, and that authority may from time to time make, alter, or amend rules and prescribe schedules of costs and fees for the purposes of those Acts and of this Act, and for the purposes of proceedings in the civil bill courts of recorders in Ireland. *Rule-making authority.*

(2) Section eighty-nine of the County Officers and Courts (Ireland) Act, 1877 (which provides for the submission to Parliament of rules and orders under that Act), shall apply, with the necessary modifications, to all rules and orders made under this section.

23. The Treasury may, with the concurrence of the Lord Chancellor, make such rules and arrangements as may seem requisite for the audit and report upon all accounts of stamp duties paid, fees received, moneys paid into court or lodged or in any manner received by any officer of a county court under any Act now in force or which may hereafter be enacted relating to county courts. All such accounts shall be kept and exhibited or rendered in the prescribed manner. *Audit of accounts of stamp duties, court fees, moneys paid into court, &c.*

A.D. 1910.

Interpreta-
tion.**24.** In this Act, unless the context otherwise requires,—

The expression "judge" means a county court judge, and includes a recorder and a deputy county court judge or a deputy recorder;

The expression "clerk of the peace" includes clerk of the Crown and peace, deputy clerk of the Crown and peace, and deputy clerk of the peace;

The expression "issue of the civil bill" means the delivery or the posting in a prepaid addressed envelope of the civil bill to the civil bill officer for service; 10

The expression "action" means any proceeding commenced in a county court by ordinary civil bill, or by default process, or in ejectment or replevin, or a remitted action;

The expression "decree" includes decree, dismiss, or order; 15

The expression "suit" means an equity suit;

The expression "matter" means any proceeding commenced by petition; and

The expression "prescribed" means prescribed by rules and orders under this Act. 20

Short title
and construe-
tion.

25. This Act may be cited as the County Courts (Ireland) Act, 1910, and shall be construed as one with the County Courts (Ireland) Acts, 1851 to 1889, and may be cited with those Acts as the County Courts (Ireland) Acts, 1851 to 1910.

Commence-
ment of Act.

26. Subject as in this Act mentioned this Act shall come 25
into operation on the *first day of June one thousand nine hundred and eleven.*

Repeals.

27. The enactments specified in the schedule to this Act are hereby repealed to the extent in the third column of that schedule mentioned. 30

SCHEDULE.

A.D. 1910.

ACTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
5 14 & 15 Vict. c. 57.	The Civil Bill Courts (Ireland) Act, 1851.	Section sixty-one, from "and that in case" to "whosoever." Section one hundred and six.
10 27 & 28 Vict. c. 99.	The Civil Bill Courts Procedure Amendment Act (Ireland), 1864.	Section fifty-eight.
40 & 41 Vict. c. 56.	The County Officers and Courts (Ireland) Act, 1877.	Section thirty-nine.

County Courts (Ireland).

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B I L L

To amend the Law relating to County
Courts in Ireland.

Presented by Mr. Brady,

supported by

*Mr. Maurice Healy, Mr. Kelly, and
Mr. Homer.*

*Ordered, by The House of Commons, to be Printed,
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[Bill 293.]